

## **TITLE 2. CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM NOTICE OF PROPOSED REGULATORY ACTIONS**

NOTICE IS HEREBY GIVEN that the Board of Administration (Board) of the California Public Employees' Retirement System (CalPERS) proposes to take the regulatory action described below after considering public comments, objections, or recommendations.

### **I. PROPOSED REGULATORY ACTION**

In this filing, the Board proposes to amend Regulation 599.550 titled "Prefunding Plan for Health Care Coverage for Annuitants" in Title 2 of the California Code of Regulations. This proposed regulatory action pertains to changes in Stats. 2007, Ch. 318 (AB554) to allow eligible employers who are not participating in the Public Employees' Medical and Hospital Care Act (PEMHCA) to participate in the California Employers' Retiree Benefit Trust (CERBT)

### **II. WRITTEN COMMENT PERIOD**

Any person may submit written comments relevant to the proposed regulatory action. The written comment period closes at 5:00 p.m. on September 13, 2010. The Regulations Coordinator must receive all written comments by the close of the comment period. Comments may be submitted via facsimile at (916) 795-4607; e-mail at [veronica\\_mora@calpers.ca.gov](mailto:veronica_mora@calpers.ca.gov); or mailed to the following address:

Veronica Mora, Regulations Coordinator  
California Public Employees' Retirement System  
400 Q Street, Room W2580  
P.O. Box 942702  
Sacramento, California 94229-2702

Telephone: (916) 795-0713

### **III. AUTHORITY AND REFERENCE**

The Board has general authority to take regulatory action under Government Code Section 20121, and to implement the Annuitants' Health Care Coverage Fund described at Government Code Section 22940.

### **IV. INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Government Code 22940 gives CalPERS the authority to administer the Annuitants' Health Care Coverage Fund, (defined in existing regulations as the Prefunding Plan and sometimes referred to as the California Employers' Retiree Benefit Trust fund, or CERBT for short) for the purpose of prefunding

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of employer retiree health benefits and other post employment benefits (OPEB).

Prior to January 1, 2008, only employers who participated in the health benefits program authorized by the Public Employees' Medical and Hospital Care Act (PEMHCA), administered by CalPERS, were eligible to participate in the CERBT. Effective January 1, 2008, Stats. 2007, Ch. 318 (AB544), expanded the definition of "employer" to allow non-PEMHCA employers who contract for defined health benefits for their employees to participate in the CERBT.

The proposed amendments to the regulations expand the definition of employer to reflect the statutory change and thereby allow qualified California public agency employers to contract with CalPERS to prefund OPEB through the CERBT fund.

The proposed amendments also indicate that the Prefunding Plan is sometimes referred to as the California Employers' Retiree Benefit Trust or CERBT.

### **V. EFFECT ON SMALL BUSINESS**

The proposed regulatory action does not affect small business because it neither imposes requirements on nor mandates participation or other action by business. Rather, the action expands the definition of employer to allow greater participation by qualified California public agency employers for the purpose of prefunding OPEB.

### **VI. DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION**

- A. **MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS:** The proposed regulatory action does not impose a mandate on local agencies or school districts.
- B. **COST OR SAVINGS TO ANY STATE AGENCY:** The proposed regulatory action does not impact costs or savings for any state agency.
- C. **COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT:** The proposed regulatory action does not impact costs or savings for any local agency or school district, such that costs would qualify for reimbursement under Government Code Section 17500 et seq.
- D. **NON-DISCRETIONARY COSTS OR SAVINGS IMPOSED ON LOCAL AGENCIES:** The proposed regulatory action does not impose non-discretionary costs or savings on local agencies.

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- E. COSTS OR SAVINGS IN FEDERAL FUNDING TO THE STATE: The proposed regulatory action does not impact any federal funding to the state.
- F. ADVERSE ECONOMIC IMPACT: The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses including the ability of business of California to compete with business in other states.
- G. COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESS: The CalPERS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- H. IMPACT ON JOBS AND BUSINESS WITHIN CALIFORNIA: The proposed regulatory action will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.
- I. EFFECT ON HOUSING COSTS: The proposed regulatory action has no significant effect on housing costs.

### **VII. CONSIDERATION OF ALTERNATIVES**

The Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action. The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation during the written comment period.

### **VIII. CONTACT PERSONS**

Please direct inquiries concerning the substance of the proposed regulatory action to:

John Swedensky  
Constituent Relations Office  
California Public Employees' Retirement System  
P.O. Box 942709  
Sacramento, California 94229-2709

Telephone: (916) 795-0835  
Fax: (916) 795-0032

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E-mail: [john\\_swedensky@calpers.ca.gov](mailto:john_swedensky@calpers.ca.gov)

Please direct requests concerning processing of this regulatory action to:

Veronica Mora  
Regulations Coordinator  
400 Q Street, Room W2580  
P.O. Box 942702  
Sacramento, California 94229-2702

[veronica\\_mora@calpers.ca.gov](mailto:veronica_mora@calpers.ca.gov)  
Telephone: (916) 795-0713

### **IX. AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The entire rulemaking file is available for public inspection through the Regulations Coordinator at the address shown above. To date the file consists of this notice, the proposed text of the regulations, and the Initial Statement of Reasons (ISOR). A copy of the proposed text and the ISOR is available at no charge upon telephone or written request to the Regulations Coordinator.

The Final Statement of Reasons can be obtained, once it has been prepared, by written request to Veronica Mora, Regulation Coordinator, at the address shown in Section II.

For immediate access, the regulatory material regarding this action can be accessed at CalPERS' web site at [www.calpers.ca.gov](http://www.calpers.ca.gov) under Members, About CalPERS, Proposed Regulatory Actions.

### **X. PUBLIC HEARING**

The Board has not scheduled a hearing, however, any interested person, or his or her duly authorized representative, may request a public hearing pursuant to Government Code Section 11346.8. The request must be in writing and must be submitted to the Regulations Coordinator, at the address shown above, no later than 15 days prior to the close of the written comment period.

### **XI. ACCESS TO HEARING ROOM**

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If a hearing is scheduled, the hearing room will be accessible to persons with mobility impairments, and it can be made accessible to persons with hearing or vision impairments upon advance request to the Regulations Coordinator.

### **XII. AVAILABILITY OF MODIFICATIONS TO PROPOSED AMENDMENT**

The Board may, on its own motion or at the recommendations of any interested person, modify the proposed text of the regulations after the written comment period has closed. It may amend Regulation 599.550 as modified if the changes are sufficiently related to the original text so the public could have anticipated them.

If the Board modifies its regulatory action in this manner, it will prepare a comparison of the original proposed text and the modifications for an additional public comment period of not less than 15 days prior to the date on which the Board adopts amends or repeals the resulting regulation. A copy of the comparison text will be mailed to all persons who submitted written comments or asked to be kept informed as to the outcome of this regulatory action.